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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,974	09/26/2003	Mark S. Shaskey SR.	SHASKEY-PA-1	8867
7590	03/16/2005		EXAMINER	
Law Offices of Royal W. Craig Suite 153 10 N. Calvert Street Baltimore, MD 21202			KRAMER, DEAN J	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,974

Applicant(s)

SHASKEY, MARK S.

Examiner

Dean J. Kramer

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cowles.

3. Claims 1, 4, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Didion.

Didion shows a bottle holder comprising a lower section (5) with a smaller inner diameter (at 16) than the inner diameter of the upper section (4).

4. Claims 1, 2, 4, 7, 8, and 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Bohne et al..

The patent to Bohne et al. shows upper and lower cylindrical sections (104), a plurality of struts (106, 116), and a handle (108) having transverse ribs (110) wherein each of the struts (106) have outwardly directed opposing ribs for increasing the structural support of the holder (see col. 3, lines 51-53).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bohne et al. in view of Holub et al..

The Holub et al. patent shows a cylindrical section having a textured inner surface (49) and slightly tapered sidewalls (see col. 3, lines 1-7) for securely engaging the outer surface of a bottle or the like.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to texture the inner surfaces of the Bohne et al. cylindrical sections (104) and at least slight taper the bottom cylindrical section as taught by Holub et al. in order to create a more secure grip on the container being held.

7. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bohne et al. in view of Kennedy.

Kennedy shows a bottle holding apparatus "made of plastic material, which can be molded or manufactured by any known plastic manufacturing process." (col. 3, lines 64-66).

It would have been obvious to a person having ordinary skill in the art to mold, bond, or otherwise manufacture the plastic Bohne et al. holder as taught by Kennedy as an inexpensive means of making a durable plastic product.

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8. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bohne et al. in view of Waters.

Waters shows a container holding device formed of metal cylindrical bands (a,b,c) and metal struts (d) riveted together during the assembly thereof.

It would have been obvious to one of ordinary skill in the art to form the cylindrical sections and struts of the Bohne et al. apparatus out of metallic materials attached together through rivets as taught by Waters as an alternative yet functionally equivalent means of manufacturing a holder that would be stronger and more durable than a plastic device.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bohne et al. in view of Kochan.

Kochan discloses it old and well known to provide advertising (24) on a bottle holder to promote a message to the consumer (see col. 4, lines 8-11).

It would have been obvious to a person having ordinary skill in the art to provide an advertisement on either or both of the Bohne et al. cylindrical sections as taught by Kochan as an effective means of promoting a message to a consumer.

Drawings

10. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "textured inner surfaces" (claim 3) and the "rivets" (claim 10) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.


Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Frey shows a plurality of struts (5) each having an outwardly directed ridge that functions as a strengthening rib.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 3/10/05
Dean J. Kramer
Primary Examiner
Art Unit 3652

djk
3/10/05